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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/659,225	09/10/2003	Jason Clay Pearson	71593	5733

7590 09/06/2005

Bernard J. Graves, Jr.  
Eastman Chemical Company  
P.O. Box 511  
Kingsport, TN 37662-5075

EXAMINER
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SANDERS, KRIELLION ANTIONETTE

ART UNIT	PAPER NUMBER
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1714

DATE MAILED: 09/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

10 1

<b>Office Action Summary</b>	<b>Application No.</b> 10/659,225	<b>Applicant(s)</b> PEARSON ET AL.	
	<b>Examiner</b> Kriellion A. Sanders	<b>Art Unit</b> 1714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-43 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-43 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

### DETAILED ACTION

1. Applicant is advised that there is no claim 33 in the case.

#### *Election/Restrictions*

2. Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 1-25, 26-32 and 34-42, drawn to a polyester composition, classified In class 525/418+. The composition comprises:

- ♦ a polyester and
- ♦ a so-called “methylene” compound that is sufficiently acidic to react with acetaldehyde selected from

- (1) the methylene compound of claim 14
- (2) the methylene compound of claim 15
- (3) the methylene compound of claim 16
- (4) the methylene compound of claim 17
- (5) the methylene compound of claim 18
- (6) the methylene compound of claim 19
- (7) the methylene compound of claim 20
- (8) the methylene compound of claim 21
- (9) the methylene compound of claim 22
- (10) the methylene compound of claim 23
- (11) the methylene compound of claim 24

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- (12) the methylene compound of claim 25
  - (13) the methylene compound of claim 26
  - (14) the methylene compound of claim 39
  - (15) the methylene compound of claim 40
  - (16) the methylene compound of claim 41
- ♦ optional conventional additives, selected from
- (a) post consumer recycled material
  - (b) at least one colorant
  - (c) at least one ultraviolet light absorbing compound admixed in the polyester
  - (d) at least one ultraviolet light absorbing compound copolymerized into the polyester
  - (e) an infrared absorbing compound selected from the group of
    - (i) carbon black
    - (ii) black iron oxide
    - (iii) reduced antimony metal catalyst residues
    - (iv) infrared absorbing compounds admixed in the polyester
    - (v) infrared absorbing compounds copolymerized in the polyester
  - (f) a lubricant
  - (g) an inorganic mineral composite

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(h) talc

♦ a catalyst selected from the group consisting of

(a) hindered amine light stabilizers

(b) amino acids

(c) alkali metal salts of mono and polycarboxylic acids

(d) tertiary amines

(e) secondary amines

(f)

**II.** Claim 43, drawn to a method for reducing the amount of acetaldehyde in a polyester composition, classified in class 525+, subclass 418+.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions I and II are unrelated. The inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions are not capable of use together.

3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

4. This application contains claims directed to the following patentably distinct species of the claimed invention:

(2) The composition comprising the methylene compound of claim 14

(3) The composition comprising the methylene compound of claim 14

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- (4) The composition comprising the methylene compound of claim 16
- (5) The composition comprising the methylene compound of claim 17
- (6) The composition comprising the methylene compound of claim 18
- (7) The composition comprising the methylene compound of claim 19
- (8) The composition comprising the methylene compound of claim 20
- (9) The composition comprising the methylene compound of claim 21
- (10) The composition comprising the methylene compound of claim 22
- (11) The composition comprising the methylene compound of claim 23
- (12) The composition comprising the methylene compound of claim 24
- (13) The composition comprising the methylene compound of claim 25
- (14) The composition comprising the methylene compound of claim 26
- (15) The composition comprising the methylene compound of claim 39
- (16) The composition comprising the methylene compound of claim 40
- (17) The composition comprising the methylene compound of claim 41

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. **The election should indicate which one of species (1) through (16) as set out above applicant elects for examination purposes. The election should also indicate which conventional additive if any, applicant chooses to be present in the elected species. The election should further indicate which catalyst if any, applicant chooses to be present in the elected species.**

***Currently, claim 1 is generic.***

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

5. A telephone call was not made to request an oral election to the above restriction requirement, due to the complexity of the art involved.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

6. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the


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currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kriellion A. Sanders whose telephone number is 571-272-1122. The examiner can normally be reached on Monday through Thursday 6:30-7:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on 571-272-1119. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Kriellion A. Sanders  
Primary Examiner  
Art Unit 1714

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